

## Commodity Credit Corporation, USDA

## § 1479.3

### § 1478.19 Other specialty crops.

(a) For turfgrass sod, disaster benefits under this subpart are limited to turfgrass sod that would have matured and been harvested during 1999, when a disaster caused in excess of 35 percent of the expected production to die.

(b) For honey, disaster benefits under this part are limited to table and non-table honey produced commercially for human consumption. For calculating benefits, all honey is considered a single crop, regardless of type or variety of floral source or intended use.

(c) For maple sap, disaster benefits under this part are limited to maple sap produced on private property in a controlled environment by a commercial operator for sale as sap or syrup. The maple sap must be produced from trees that are: located on land the producer controls by ownership or lease; managed for production of maple sap; and are at least 30 years old and 12 inches in diameter.

## PART 1479—HARNEY COUNTY FLOOD ASSISTANCE

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SOURCE: 65 FR 36583, June 8, 2000, unless otherwise noted.

### § 1479.1 Applicability.

This subpart sets forth the terms and conditions applicable to flood assistance for Harney County, Oregon. Benefits will be provided to eligible producers in Harney County, Oregon, on land where flooding occurred during the 1999 crop year, and has been subject to flooding, one of the years 1994 through 1998.

### § 1479.2 Administration.

(a) This program shall be, to the extent practicable and to the extent not

inconsistent with the provisions of this part, be administered in the same manner as the program provided for in 7 CFR part 1478 utilizing the regulations effective in that part as of March 1, 2000.

(b) The program will be administered under the general supervision of the Executive Vice President, Commodity Credit Corporation (CCC), and shall be carried out in the field by State and county Farm Service Agency (FSA) committees.

(c) State and county FSA committees and representatives do not have the authority to modify or waive any of the provisions of this part.

(d) The State FSA committee shall take any action required by this part that has not been taken by a county FSA committee. The State FSA committee shall also:

(1) Correct or require a county FSA committee to correct any action taken by such county FSA committee that is not in accordance with this part; and

(2) Require a county FSA committee to withhold taking or reverse any action that is not in accordance with this part.

(e) No delegation herein to a State or county FSA committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by a State or county FSA committee.

(f) The Deputy Administrator may authorize the State and county committees to waive or modify deadlines or other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program or when, in his or her discretion, it is determined that an exception should be allowed to provide for a more equitable distribution of benefits consistent with the goals of the program provided for in this part.

### § 1479.3 Definitions.

Terms in this part shall have the same meanings as those defined in § 1478.1 of this chapter. In addition, for purposes of this part and notwithstanding any contrary definitions in part 718 of this title or part 1478 of this chapter:

#### § 1479.4

#### 7 CFR Ch. XIV (1-1-03 Edition)

*Application* means the Form CCC-454, which was previously used for the Flood Compensation Program formerly provided for in this chapter, which form shall now be used for the program provided for in this part. The CCC-454 shall be used to collect the information necessary to determine the total acres flooded for purposes of this program.

*Calendar year 1999* means January 1, 1999 through December 31, 1999.

*Cropland* means cropland as defined in part 718 of this chapter.

*Forage* means growing vegetation used for food for domestic animals.

*NASS* means the National Agricultural Statistics Service.

#### § 1479.4 Application process.

(a) Producers must submit a completed application by the date established by the Deputy Administrator. The application and any supporting documentation shall be submitted to the county FSA office with administrative authority over a producer's eligible flooded land or to the county FSA office that maintains the farm records for the producer.

(b) Producers shall certify as to the accuracy of all the information being requested in the application, and provide any other information to CCC that the county FSA office or committee deems necessary to determine the producer's eligibility.

#### § 1479.5 County committee determinations of general applicability.

(a) County committees shall determine whether land that is the subject of the application is land that has suffered flood-related production losses during calendar year 1999, and is at the same time land to which the following apply:

(1) It is land that otherwise would have been used for crops or for pasture and could not be used because it was inaccessible, incapable of production, or the production was unusable during CY 1999, due to flooding;

(2) The land was inaccessible, incapable of production, or the production was unusable any one of the years 1994 through 1998, due to flooding; and

(3) The land has, otherwise, a history of actual crop production or use as pastureland at some time since 1990.

(b) In making the determination called for in paragraph (a) of this section, the County committee shall use what it considers to be the best information available including but not limited to: Extension Service; Natural Resources Conservation Service; aerial photography; rainfall data; and general knowledge of losses due to flooding.

(c) If the county Committee makes an affirmative determination under paragraph (a) of this section, the producer with the affected acreage shall be considered an "eligible producer" for purposes of this part.

(d) For purposes of setting rental rates for calculations required to be made elsewhere in this part the county committee shall use the established rental rates for Harney County, for cropland and pasture-land. These rates shall be reviewed by the State Committee and may be equal to the estimated 5-year average rental rates for all such land of each type in the county. The State Committee may take into account rates established for the Conservation Reserve Program operated under 7 CFR part 1410 and ensure, subject to paragraph (e) of this section, that the rates are comparable. The Deputy Administrator shall review and may adjust the rates for reasonableness and consistency.

(e) Except as provided by the Deputy Administrator, rental rates shall be established based on NASS data, if available for 1999.

#### § 1479.6 Loss criteria.

(a)(1) The flooded land for which a producer requests benefits must be within the physical boundary of Harney County, Oregon.

(b) To be eligible for benefits under this subpart, a producer in Harney County and contiguous counties must have a tract of land that meets all the following criteria:

(1) The land is cropland or pasture land intended to be used for the production of feed for livestock (haying, grazing, or feed grain production) or other agricultural use in CY 1999 and one of the years 1994 through 1998;

(2) The land, for calendar year 1999, was inaccessible or unable to be used for crop production, grazing, or haying,

or the production was unusable because of flooding;

(3) The land has been owned, leased or under a binding cash lease by the producer for crop year 1999;

(4) The land is a contiguous parcel of land with an area equal to one acre or more;

(5) The land actually produced a crop, or was used for pasture, during or after the 1990 crop year.

(c) On the CCC-454 producers shall be required to certify on each farm the number of flooded cropland and non-cropland acres for the farm in 1999.

(d) All determinations as to the amount of land eligible for enrollment and compensation under this subpart are subject to approval by the county committee.

(e) The county committee may use any available documentation to make the determinations under paragraphs (b) and (c) of this section, including but not limited to: maps, acreage reports, slides, precipitation data, water table levels and disaster reports.

#### **§ 1479.7 Producer eligibility.**

(a) Producers in Harney County will be eligible to receive benefits under this part only if they have suffered 1999-crop losses of eligible crops as a result of flooding.

(b) Payments made for losses suffered by eligible producers under this subpart shall be subject to the provisions of §§ 1478.4 through 1478.12 of this chapter, and their successor regulations, except as otherwise provided in this subpart.

(c) No person as defined and determined under part 1400 of this chapter may receive more than \$40,000 under this subpart.

(d) No person as defined and determined under part 1400 of this chapter will be eligible for payment under this subpart if that person's annual gross receipts for the 1998 tax year were in excess of \$2.5 million. That determination shall be made in the manner provided for in § 1478.6 of this chapter.

(e) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity who is a foreign person as determined in accord-

ance with the provisions of § 1400.501 and § 1400.502 of this chapter.

[65 FR 36583, June 8, 2000; 65 FR 47841, Aug. 4, 2000]

#### **§ 1479.8 Calculation of assistance.**

(a) The unadjusted value of this emergency assistance determined with respect to the flooded land in Harney County for each producer shall not exceed the amount obtained by adding paragraphs (b) and (c) of this section.

(b) For each eligible producer with respect to the applicable qualifying cropland, the number of qualifying acres will be multiplied by the established local payment rate for cropland, as determined by the county Committee in accordance with instructions of the Deputy Administrator.

(c) For each eligible producer with respect to the applicable qualifying pastureland or other land that does not meet the FSA definition of "cropland," the number of qualifying acres will be multiplied by the established payment rate for "non-cropland" acres.

#### **§ 1479.9 Availability of funds; payments.**

In the event that the total amount of claims submitted under this subpart exceeds the \$1.09 million appropriated for the program provided for in this part, payments otherwise calculated under § 1478.8 shall be reduced by a uniform percentage to allow for a proration of claims within the appropriated amount. Such payment reductions shall be after the imposition of applicable payment limitation provisions. Applications for payment must be submitted by the time and in the manner specified by the Deputy Administrator.

### **PART 1480—2000 CROP DISASTER PROGRAM**

#### **Sec.**

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